

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Final Office Action dated June 2, 2009. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-17 are pending in the Application. Claims 1, 10 and 14 are independent claims.

In the Final Office Action, claims 1-2 and 9-12 are rejected under 35 U.S.C. §103(a) over European Patent Publication No. WO 2004/098360 to Winstanley ("Winstanley") in view of U.S. Patent No. 4,988,019 to Dawes ("Dawes"). Claims 3-4 are rejected under 35 U.S.C. §103(a) over Winstanley in view of Dawes in further view of U.S. Patent No. 6,035,762 to Ruckstuhl ("Ruckstuhl"). Claim 5 is rejected under 35 U.S.C. §103(a) over Winstanley in view of Dawes in further view of U.S. Patent Publication No. 2003/009638 to Cai ("Cai"). Claims 6-8, 13, and 17 are rejected under 35 U.S.C. §103(a) over Winstanley in view of Dawes in further view of U.S. Patent Publication No. 2002/0008447 to Tagawa ("Tagawa"). Claims 14-16 are rejected under 35 U.S.C. §102(e) over Winstanley.

These rejections are respectfully traversed. It is respectfully submitted that claims 1-17 are allowable over

Winstanley alone, and in combination with Dawes, Ruckstuhl, Cai and Tagawa for at least the following reasons.

It is undisputed that "Winstanley et al fails to teach that the means for conducting the brewed beverage from the brewing chamber is characterized by squeezing the pad." (See, Final Office Action, page 4.) Dawes is relied on to supply that which is admitted missing from Winstanley, however, it is respectfully submitted that reliance on Dawes for supplying that which is admitted missing from Winstanley is misplaced.

As previously stated by the Applicants, Dawes shows a beverage dispensing system 10 (see, FIGs. 1-4) that includes "a lid member 11 which forms the cover to packing enclosure 12, straining container 13, tea bag 14, string member 15 and disc member 16." (See, Dawes, Col. 3, lines 38-43.) While Dawes does state that "disc member 16 is capable of placement within straining container 13 so as to be pressed against tea bag 14 (FIG. 4) so as to cause liquid within tea bag 14 to be drained therefrom such that said liquid is capable of passing through openings 18 and into cup 19 as illustrated in FIG. 4", it is respectfully submitted that clearly, to depress the disc member 16, the lid member 11 must be removed.

In Applicants' invention, the brewing device remains closed during the brewing process, and remains closed even during the straining of the one or more beverage pads. Thus, in Applicant's invention the action of opening the brewing device also acts to strain the one or more pads of excess fluid. The pressing of the disc 16 of Dawes is not equivalent to the downward pressing action during the opening of the Applicants' invention after brewing has taken place. In Dawes, a user may be enabled to push down on the disc, but this can not occur in a brewing chamber that is closed during brewing as recited in the claims and as shown in Winstanley.

Accordingly, even if the combination of Winstanley and Dawes is accepted as obvious in arguendo, which obviousness of the combination is respectfully refuted, it is respectfully submitted that incorporation of Dawes into Winstanley would clearly result in a combination wherein the brewhead 104 of Winstanley (see, FIGs. 1 and 3) must be opened to enable depression of the disc member 16 of Dawes.

Therefore, Winstanley in combination with Dawes fails to teach a (illustrative emphasis provided) "means for squeezing the one or more pads after the brewing process has been finished but before the brewing chamber is opened after the brewing process and wherein

the brewing chamber is closed during brewing of the brewed beverage" as recited in claim 1 and as substantially recited in each of claims 10 and 14.

Furthermore, as correctly noted by the Examiner, Winstanley fails to explicitly teach a central portion that is extended spherically downward. However, Applicants respectfully disagree that the shape of the extension is inherent as a matter of design choice. The shape of the central portion, in one embodiment of the present system, is designed to optimize the squeezing action (contact with the one or more pads) of the lid assembly of Applicants' system, in the event a user is placing downward pressure on the lid to open the brewing chamber. While the disk of Dawes is flat and potentially makes full contact with the tea bag 14, the spherically shaped protrusion of the embodiment of the present system provides a resulting squeezing of the one or more pads during the pivoting downward motion of the lid assembly (e.g., see present application, FIGs. 3, 4). The squeezing of the one or more pads is not taught, disclosed or suggested by Winstanley and therefore, there would be no reason for one of ordinary skill in the art to modify Winstanley without the teachings of the present system.

Accordingly, it is respectfully submitted that the device of claim 1 is not anticipated or made obvious by the teachings of Winstanley in view of Dawes. For example, Winstanley in view of Dawes does not teach, disclose or suggest, a device that amongst other patentable elements, comprises (illustrative emphasis added) "means for conducting the brewed beverage from the brewing chamber, comprising means for squeezing the one or more pads after the brewing process has been finished but before the brewing chamber is opened after the brewing process, and wherein the brewing chamber is closed during brewing of the brewed beverage" as recited in claim 1, and as similarly recited in each of claims 10 and 14.

Winstanley is admitted for not disclosing or suggesting this feature and clearly, Dawes in combination with Winstanley would required opening of the lid of Winstanley to enable depression of the disc member 16 of Dawes.

Ruckstuhl, Cai and Tagawa are introduced for allegedly showing elements of the dependent claims and as such, does nothing to cure the deficiencies in each of Winstanley and Dawes.

Based on the foregoing, the Applicants respectfully submit that independent claims 1, 10 and 14 are patentable over Winstanley in view of Dawes and notice to this effect is earnestly solicited.

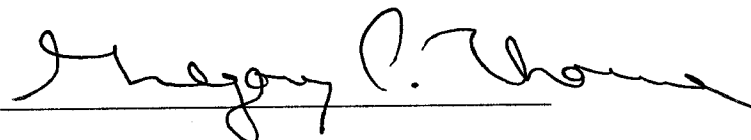
Claims 2-9, 11-13 and 15-17 respectively depend from one of claims 1, 10 and 14 and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each of the claims.

Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

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